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LOUIS PAUL HERZBERG  
3 CLOVERDALE LANE  
MONSEY, NY 10952

EXAMINER

MANNING, JOHN

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/912,109	SAKAMOTO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Manning	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 3/9/2006 have been fully considered but they are not persuasive.

Applicant states that the rejection of claims 1, 8 and 16 "...is employing hindsight in order to reject a claim. This is not permitted. But even with the hindsight it will be shown that the cited reference does not anticipate the presently claimed invention. Independent claims 1, 8 and 16 are amended to better protect the invention."

The examiner is unaware as to how claims 1, 8 and 16 could have been rejected employing an obvious premised hindsight reconstruction given that the rejection is anticipated under 35 U.S.C. 102(e).

Applicant argues, "Augenbraun employs a Web browser over and over..." Applicant kindly offers a definition for "a browser" as "short for Web browser, is a software application used to *locate* and *display* Web pages." With respect to Augenbraun, the browser application, used to retrieve web pages, is located at the headend. The retrieved information is converted to video and sent to the user. The browser application is not used to *display* web page as required by *Applicant's own definition*. Of course, the Web page is ultimately displayed by the set top box, which receives data via the tuner(s). If Applicant interprets any system that *locates* and *displays* Web pages to be "a browser", then Applicant's claimed invention is "a browser" and therefore the claims would not enabled.

Applicant acknowledges that Augenbraun discloses and MPEG 1 or MPEG 2 encoder, but then goes on to argue that “[i]t does not perform the function of, ‘compressing video data in accordance with a predetermined compression scheme and transmitting the compressed data.’” Using an MPEG encoder is compression in accordance with a predetermined compression scheme. Applicant’s own specification and dependent claim 12 define MPEG 2 as a predetermined compression scheme.

With respect to claims 5 and 11, Applicant states, “If putting voice or sound information associated with a webpage would have been advantageously combined with Augenbraun, Augenbraun should have referred to it. This is hindsight.” This is completely incorrect. This is not hindsight. This is an officially noticed fact, which has not been traversed and now is now being treated as an admitted fact.

With respect to Applicant mention of hindsight, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant’s disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The official notice of claims 13-15 and 19-20 has not been traversed now is now being treated as an admitted fact.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6-10, 12 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Augenbraun et al. (US Pat App Pub No 2005/0149981).

In regard to claims 1 and 16, Augenbraun discloses a system and method for browsing the Web on the Internet, using a broadcast system as illustrated by Figure 1. The claimed limitation of “a transmitting unit for compressing video data in accordance with a predetermined compression scheme and transmitting the compressed data” is met by encoder 36 of Figure 2. The claimed limitation of “a receiving unit for receiving and decoding the transmitted video data and transmitting the data to a video display device” is met by Figure 3. The claimed steps of “converting a web page transmitted to the transmitting unit from the Internet into video data”, “compressing the video data in accordance with the predetermined compression scheme” and “transmitting the compressed video data” is met by Figure 2. “An Internet session manager 30 is provided which starts the browser applications 28 and a display manager 32. The browser applications 28 and display manager 32 are interfaced to a communications manager 34 to facilitate downloading of the web pages to the system users. A video

encoder 36, which may be an MPEG 1 or MPEG 2 encoder, for example, is also preferably provided in the headend 12 for encoding the web page bit map images before they are transmitted by the distribution network 13 to the set tops 14. The encoder 36 is employed to reduce the bandwidth necessary to transmit the data generated by the browser application 28, and to generate, for example, an MPEG standard compliant video stream" (Paragraph 0026). The claimed step of "receiving and decoding the transmitted video data using the receiving unit to directly transmit the data to the video display device, without requiring a browser application" is met by Figure 3. "With reference to FIG. 3, the details of one of the set tops 14 are illustrated. A tuner 40 is provided for receiving the digitally encoded or compressed video programming and Internet-based information from the distribution network 13 on each of the downstream channels 16, and selecting the one of the downstream channels 16 from which information will be displayed on the television or monitor 20. From the tuner 40, the selected information passes through a decoder 42 which restores the video programming signals and web page image data to their original form for display on the television or monitor 20" (Paragraph 0031). The disclosed browser application is at the headend. Nowhere in Figure 3 or the description of Figure 3 is a browser application disclosed.

In regard to claims 2 and 17, the claimed step of "providing a link to the video data on the basis of a link provided to the web page" and "said step of transmitting the compressed video data comprises transmitting the compressed video data and information about the link" are met by the method performed by the web page generator

25 application browser 28 of Figure 2. "Preferably, additional data is added by the web page generator 25 (or by a remotely located web page generator) to the usual encoded image data to indicate relationships between the channels and which key sequences are to be used to select which channels. This data comprises linkage commands that are used to traverse the broadcast channels by menu instead of by channel, and to hyperlink to web pages from hyperlinks embedded in the broadcast channels. Though similar to tuning to a channel from a set top-resident channel guide, this differs in that the tuning would not be to a channel, but to a content stream and would be more like hyperlinking among web pages" (Paragraph 0024; Also see Paragraph 0023).

In regard to claims 3, 9 and 18, the claimed steps of "extracting a web address linked to the link provided to the web page" and "placing the link in the video data on the basis of the position of the link provided to the web page" are met by the method performed by Figures 2-3. "To facilitate insertion of the linkage commands in the HTML web page data, the web page generator is preferably provided with a plug-in referred to as a linkage editor 29. The browser applications 28 are able to accept the linkage commands and generate data in the broadcast stream that would specify to set tops 14 the linkage commands on the current page" (Paragraph 0025). "The terminal processor 44 is interfaced to a channel mapping database 46 that is contained in a memory 48, and stores channel mapping and hyperlink request identification information for any number of user selectable channel hyperlinks or assessable web pages or sites. For example, the user may actuate the hyperlink button on their remote controller 24 during a news, weather or sports television broadcast, and the terminal processor 44 will

access the channel mapping database 46 to identify the hyperlink request, and determine on which of the downstream channels 16, and in which time slot or PID, related Internet based information (e.g., news, weather or sports web site) is being broadcast" (Paragraph 0031). Where the hyperlink information is embedded in the broadcast based being positioned on a webpage.

In regard to claims 4 and 10, the claimed step of "decoding the received data" and "transmitting the decoded data to the video display device" are met by the method performed by Figure 3. The claimed step of "establishing an association between the information about the link provided to the received video data and a position of a cursor in the video data transmitted to the video display device" is also met by Figure 3.

"The terminal processor 44 determines the identity of the hyperlink using the linkage commands that are inserted by the linkage editor 29 at the headend 12. More particularly, an input application 49 is run by the terminal processor 44 that processes inputs received by the input receiver 45 by detecting when either the channel hyperlink button on the keyboard 22 or remote controller 24 has been pressed, or when a hyperlink button on a currently displayed image has been highlighted and selected by the user. Once the hyperlink request and corresponding channel and time slot information have been identified, the terminal processor 44 will then instruct the tuner 40 to switch to the designated channel so that the requested information can be downloaded into the set top 14 for display by a terminal display manager 52 on the user's television or monitor 20. A cache 50 can be provided in the memory 48 for pre-storing downloaded information if desired. To facilitate downloading of channel mapping



and hyperlink request identification information from the headend 12 to the channel mapping database 46, an out-of-band tuner 54 can be provided that can also be used for transmission of signaling information, as is conventional. Alternatively, the channel mapping and hyperlink request identification information can be downloaded through one of the downstream channels 16 for reception by the in-band tuner 40" (Paragraph 0032). The user selects the highlights and selects the hyperlink of interest. The hyperlinks position is what inherently differentiates one hyperlink from another.

In regard to claim 6, the claimed steps of "sending link information to the transmitting unit when any one link provided to the data transmitted to the video display device is selected" and "transmitting a web page linked to the selected link from the Internet to the transmitting unit" is met by Figure 3. "In the case of a two-way system, an upstream transmitter 43 is also provided for transmitting hyperlink requests and other information to the headend 12 via the upstream channel 17" (Paragraph 0030). "The terminal processor 44 determines the identity of the hyperlink using the linkage commands that are inserted by the linkage editor 29 at the headend 12. More particularly, an input application 49 is run by the terminal processor 44 that processes inputs received by the input receiver 45 by detecting when either the channel hyperlink button on the keyboard 22 or remote controller 24 has been pressed, or when a hyperlink button on a currently displayed image has been highlighted and selected by the user. Once the hyperlink request and corresponding channel and time slot information have been identified, the terminal processor 44 will then instruct the tuner 40 to switch to the designated channel so that the requested information can be

Art Unit: 2623

downloaded into the set top 14 for display by a terminal display manager 52 on the user's television or monitor 20. A cache 50 can be provided in the memory 48 for pre-storing downloaded information if desired. To facilitate downloading of channel mapping and hyperlink request identification information from the headend 12 to the channel mapping database 46, an out-of-band tuner 54 can be provided that can also be used for transmission of signaling information, as is conventional. Alternatively, the channel mapping and hyperlink request identification information can be downloaded through one of the downstream channels 16 for reception by the in-band tuner 40" (Paragraph 0032).

In regard to claims 7 and 12, the reference discloses that the compression scheme may be MPEG-2 (Paragraph 0026).

Claim 8 is met by that discussed for claims 1 and 3.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 11, 13-15 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Augenbraun et al.

In regard to claims 5 and 11, the reference discloses that the web page is converted to an MPEG-2 stream. An MPEG-2 stream carries both video and audio

information. The reference is silent with respect to any voice or sound information associated with the web page being conveyed to the user. Official notice is taken that it is notoriously well known in the art to present voice or sound information associated with a web page to a user so as to provide the user with a more fulfilling experience with the web page. Consequently, it would have been obvious to one of ordinary skill in the art to implement the reference with presenting voice or sound information associated with a web page to a user for the stated advantage.

In regard to claims 13-15 and 19-20, the reference is silent with respect to the method and system being embodied by computer readable code or program of instructions. Official notice is taken that it is well known in the art to embody methods and systems by computer readable code or program of instructions so as to increase efficiency. Consequently, it would have been obvious to one of ordinary skill in the art to implement the reference with embodying the method and system by computer readable code or program of instructions for the stated advantage.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 09/912,109  
Art Unit: 2623

Page 12

JM  
September 20, 2006



**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**